

**STATE OF NORTH CAROLINA
COUNTY OF AVERY**

The Avery County Board of Commissioners met in a Regular Session on Monday, June 15, 2009 at 3:30 p.m. in the Commissioners Board Room, Avery County Administrative Complex, 175 Linville Street, Newland, NC.

Members Present: Kenny Poteat, Chairman; Phyllis Forbes, Vice-Chair; Scott Heath; Martha Hicks; Glenn Johnson

Members Absent: None

Call To Order

Chairman Poteat called the meeting to order at 3:30 p.m.

Chairman Poteat stated that there would be a time of public comment but if someone wanted to speak to an agenda item then they must sign up on the sheet with the clerk.

Scott Heath led prayer.

Public Comments

There were no public comments.

Chairman Poteat announced that there would be a dinner and silent live auction for the Avery Arts Council on Thursday, July 16, 2009 at 5:30 p.m. at the Linville Ridge Clubhouse.

Rachel Deal thanked Chairman Poteat for coming to the Paws and Claws Resale Building ribbon cutting. The resale house proceeds will help the shelter feed the animals. Scott Heath asked what the timeframe on beginning the building for the Avery Humane Society. Ms. Deal stated that it was the hope to break ground on the new building in late August.

Chairman Poteat advised that there would be a public hearing at 3:50 p.m. and until that time the Board would continue on with the agenda.

County Manager Updates

Caution Light

Robert Wiseman, County Manager, stated that there had been no feedback on the quest to install the caution light at the intersection of Hwy 181 and Avery High School Road.

Resolution Regarding Merchant Marines

The County Manager advised there was a request from a gentleman about adding the Merchant Marine retirees to the Veterans status for VA benefits. He stated that he contacted Georgia Henry, Avery County VA Officer, who spoke with Ray Riddle, District Veteran's Officer. Mr. Riddle advised that there was no obvious show of support from the Veterans Office in our district. Chairman Poteat stated by consensus of the Board, the Board would not address the issue of the Merchant Marine retirees.

Appointed Position of Tax Collector

The County Manager stated that on the local legislation for making Avery County Tax Collector an appointed position, he had received word from Representative Phillip Frye that this legislation passed the Senate and the House and everything has been accomplished.

Phyllis Forbes entered at 3:41 p.m.

Public Buildings and Grounds Committee

The County Manager stated that another issue that was discussed at the last meeting was the Public Buildings and Grounds Committee being created to make sure the buildings are where they should be in regards to housekeeping and maintenance. He said that he had met with Mr. Bob Aldridge at his request and given Bob's health and the death of his spouse, Mr. Aldridge had decided not to renew his cleaning contract with Avery County. The County Manager said that the committee has met twice and it would appear that it is their recommendation not to enter into another contract but to advertise and hire two people that would be county employees which after the first year would possibly be a substantial savings to the County. Ms. Hicks stated that the committee is moving along and had chosen a chairman and vice-chairman and any complaints from employees would be handled by these two individuals.

Chairman Poteat stated that by consensus, two new positions would be created for the positions of custodians.

The County Manager advised that the funds had already been allocated in the coming year for janitorial services and these funds would be reallocated.

Frank Fire Department Resolution

The County Manager advised that the Resolution for the purchase of property for Frank Fire Department had already been passed but there was a clerical error by the financial institution. The original resolution that was passed said the proceeds of the loan would be for purchase of equipment and in the revised edition it states the proceeds would be for the purchase of land. The purpose of the loan was to acquire a piece of property behind the building.

Motion by Scott Heath and second by Martha Hicks to approve the Resolution for the Frank Volunteer Fire Department as amended. Motion unanimously approved.

Subdivision Ordinance

The County Manager advised that he had received correspondence back from Mr. Glenn Rhoades with the Department of Community Assistance with his recommendations that will be presented to the Avery County Planning Board to enhance the Subdivision Ordinance. He stated that it was his understanding that the planning board's recommendation would then come to the Board of Commissioners for their approval.

Public Hearing- FY Budget 2009/2010

Motion by Phyllis Forbes and second by Martha Hicks to go out of Regular Session and into a time of Public Hearing regarding the FY Budget 2009/2010 at 3:50 p.m. Motion unanimously approved.

A power point presentation was presented by Tim Greene, Finance Officer and Robert Wiseman, County Manager.

The County Manager stated that each and every county department had been cooperative with the budget and 99% of the departments did their best to submit budgets that were equal to or less than last year. He advised that the general statutes of North Carolina set forth the procedure of when the budget needs to be adopted, how it is adopted, etc. The County Manager stated that the process begins with sending out requests for budget proposals and that this is about a 45 day process to sit down with each individual department to discuss the budget. By state law a balanced budget must be adopted by July 1, 2009. There is one new program that is being funded which is the YMCA. The allocation of \$25,000 was based on the fact that the allocation would be used to provide scholarships to families who could not afford to participate in the YMCA. All nonprofits were held to an amount equal to or less than last year. The projected increase for the property values would increase 3%. The County Manager stated that the general fund tax rate remains at 0.352 cents per 100 dollars valuation which will generate an estimated 14.3 million dollars and the county wide fire tax rate remains the same at 0.038 cents which will produce an estimated 1.53 million dollars. The Avery County Fire Commission will receive \$115,000 from the general fund to ensure that each department will have a full time employee. This is additional monies. The overall tax rate is 39 cents per \$100. There are 9 counties that have lower tax rates than Avery County. The County Manager said that the general fund budget is \$23,135,803. This is a 4.3% decrease. The primary reason for the deduction was in the 2008/2009 budget there was \$500,000 Medicaid expense; there was \$374,000 for purchase of the recreation department property; and \$210,000 allocation for the water storage tank. These are expenses that the County is not facing this upcoming year. Chairman Poteat stated that education had the largest chunk of the "pie" and there is a direct link between education and debt service. The Finance Officer advised that the debt service is almost entirely on the school buildings.

The County Manager stated there are two noteworthy additions to the budget. With the faltering economy there are more people in need of the services that the Department of Social Services provides and it has been requested and approved for a position for an eligibility specialist. Roughly \$20,000 will be out of other sources and not out of the pockets of Avery County taxpayers. The County Manager advised that in order to create a safer and more accident free workplace, a safety committee is being formed which would hopefully, over a period of time, help decrease the insurance premiums.

The County Manager advised that the recession that we are now in has caused the projection of revenue in the coming year to decrease by about \$850,000. The Fire tax fund budget is increasing by about \$128,000 for a total of 1.64 million which is over an 8% increase over last year. This includes \$115,000 that was subsidized. The County Manager stated that for revaluation \$90,000 was budgeted for the 2009/2010 fiscal year. It is mandated to have a revaluation not more than every 8 years and it is required by law to contribute to the revaluation fund on an annual basis.

The County Manager said that he commended the Board with sticking to the "pay as you go" philosophy. He stated that in the past several years Avery County has placed any money over 20% of the previous year's operating expenses into the capital projects. He said that Avery County will be pleased to see the amount of money that will not have to be borrowed to build the new Banner Elk School or the new jail.

The County Manager advised that it would be the recommendation that the Board, after going out of the public hearing, adopt this budget to be effective July 1, 2009.

Tim Greene, Finance Officer, stated that through some worker's compensation and general liability savings and some capital items in the budget that were marginal, there was an additional \$300,000 dollars. The money was divided and YMCA was funded \$25,000; an additional \$12,500 was funded to Toe River Health District; an additional \$12,500 was funded to Mayland; an additional \$125,000 was funded to the Board of Education which would be broken down as \$25,000 to operational and \$100,000 to capital; an additional \$5,000 was funded to the sheriff; an additional \$5,000 was funded to pay on the lights at the Little League Field and an additional \$115,000 was funded to the Fire Commission to place a full time employee in each fire department.

Chairman Poteat stated that Avery County was very fortunate because in Wilkes County there was a 10% across the board reduction including nonprofits, schools, etc. He said that he was very pleased with what Avery County is able to do and pleased that the tax rate was the same as last year.

Phyllis Forbes said that she was pleased with the budget overall but that she would like to have seen Toe River Health District funded a little more because of the cuts that they are experiencing and also would like to have seen Mayland Community College funded a little more. She said she felt more of the money given to the school system should have went to operational because teacher's have a hard time obtaining materials and supplies and felt some of the money should have gone directly into the classrooms.

Glenn Johnson stated that he understood that Toe River Health District and Mayland Community College needed more money but the thinking was that it was unknown what the other two counties would be funding and so it was felt that Avery County taxpayers should not fund a greater portion. He said that the \$12,500 for Toe River Health District and Mayland Community College was in addition to what Avery County gave last year.

Junior Sluder, President of the Avery Fire Association, stated that the Fire Association is the only organization that saves Avery County money and that the fire association is under the most scrutiny. He said that there are organizations that get \$75,000 without answering to anyone where the money goes. Mr. Sluder stated that the fire association only asked for a little increase but basically got the same amount and that he wished that the fire tax would have been raised instead of the \$115,000 coming out of the general fund.

Daryl Smith, Chairman Avery County Fire Commission, asked if the 1 cent of the fire tax was for debt reduction and the 2.8 cents for operational and if the \$115,000 was additional money for personnel. Tim Greene, Finance Officer, answered yes.

Tom Hughes, Department of Social Services Director, thanked the Board for the support that they gave his department.

Dr. Keith Eades expressed his appreciation for the hard work and the partnership between the Board of Education and Board of Commissioners.

Sheriff Kevin Frye thanked the Board for their support.

Scott Heath advised that he would always allocate more money coming from the recommendation of the third party Fire Commission than 11 different fire departments because there is more accountability. He also said that this year with the \$115,000 to put a man in every fire department is an expansion at the time when other counties are cutting. Mr. Heath said that the Board must take into consideration there are a number of people on unemployment and out of work and he didn't feel it was appropriate at this time to raise the fire tax.

Martha Hicks thanked all of the departments for what they do and also thanked the fire departments and the school board.

Motion by Glenn Johnson and second by Scott Heath to go out of the Public Hearing for the FY Budget 2009/2010 and back into a time of Regular Session at 4:45 p.m. Motion unanimously approved.

Chairman Poteat advised that the Board was back in Regular Session after a time of public hearing.

Motion by Martha Hicks and second by Scott Heath to adopt the budget as presented and further that the 2009/2010 budget will be balanced through a general fund tax rate of 35.2 cents and the fire tax rate of 3.8 cents same as the prior year. Motion unanimously approved.

Chairman Poteat called a 2 minute recess.

Chairman Poteat declared the Board to be back into session after a brief recess.

Ordinance to Prohibit Issuance of Building Permits to Delinquent Taxpayers

The County Manager stated that he was under the impression incorrectly that HB 787 of the 2005 Session Laws gave counties the authority to prohibit issuance of building permits to delinquent taxpayers but that this was a local bill for Yadkin County and that it would take more than a resolution to enact this. The County Manager advised that he would like to table this agenda item until there was further investigation.

Approval of Minutes

Motion by Glenn Johnson and second by Phyllis Forbes to approve the minutes for the budget workshop May 6, 2009; budget workshop May 14, 2009; budget workshop May 20, 2009. Motion unanimously approved.

Agenda Consent Items

Agenda Consent Items were adopted by consensus.

Upcoming Meetings

The next regular meeting will be July 6, 2009. The Board members need to let the Clerk know if they are going to attend the NCACC meeting August 27-30 in Hickory.

Public Hearing – Economic Development Commission

Motion by Martha Hicks and second by Scott Heath to go out of Regular Session and into a time of Public Hearing at 5:00 p.m. regarding the request by the Economic Development Commission to disburse development funds for the benefit of Pro-Tek Cocoon Creations. Motion unanimously approved.

Michaelle Poore, County Attorney, advised that she contacted the Institute of Government and it was their advice to hold a public hearing regarding the disbursement of the EDC funds to Pro-Tek.

Tommy Burleson stated that the Economic Development Committee had voted on the loan grant agreement and leasing the property at Chuck Poore's building and that it was approved by the EDC.

Chairman Poteat said that these monies are in hand with EDC and that this did not require a budget amendment.

Rachel Deal stated that she was on the EDC and that Pro-Tek will bring jobs to the county.

Steve York, Pro-Tek representative, explained that the first year there would be approximately 18 people employed and by the third year approximately 54 people. These people would have on-the-job training.

Scott Heath stated that these are monies that we budget to the EDC for this kind of opportunity. He said he felt that this helps diversify Avery County and gives an opportunity to bring more jobs into the county.

The County Manager advised that there will be some administrative issues that the finance officer and county manager would need to address. He said that the original discussion was to allocate \$1000 a month for 10 months for rent and during that period of time the roof repairs will be completed.

Martha Hicks stated that her biggest concern was to protect the county and that there should be some kind of agreement between Avery County and Pro-Tek.

The County Attorney explained that there was an agreement called a "clawback" agreement and this has been addressed with Pro-Tek.

Glenn Johnson stated that he had some of the same concerns as Ms. Hicks had and that it was the Board's responsibility to take care of the taxpayer's money.

Motion by Phyllis Forbes and second by Martha Hicks to go out of a time of Public Hearing and back into Regular Session at 5:15 p.m. Motion unanimously approved.

Chairman Poteat advised that the Board was back in a time of Regular Session after a time of Public Hearing.

Motion by Glenn Johnson and second by Scott Heath to honor the request of the Economic Development Commission to disburse development funds in the amount of \$10,000 including a clause concerning the "clawback" aspect of this contract for the benefit of Pro-Tek Cocoon Creations, LLC. Motion unanimously approved.

Cooperative Law Enforcement Agreement

Troy Cook, Avery County Sheriff's Department, reported that the US Forest Service has 28,000 acres in Avery County and one law officer who is unable to provide adequate law enforcement for those areas and the US Forest Service has agreed to pay a small amount of money for the law enforcement provided on

the forest service property. The US Forest Service offered to pay Avery County Sheriff's Department \$2000 per year. Chairman Poteat said apparently the sheriff's department is providing this service with no reimbursement. Sheriff Kevin Frye stated that the officers will document the times they provide this service and that the money received for this is designated money for law enforcement purposes only.

The County Attorney stated that she had no concerns with this agreement.

Motion by Martha Hicks and second by Glenn Johnson to approve the Cooperate Law Enforcement Agreement between Avery County Sheriff's Department and the Us Department of Agriculture, Forest Service National Forests in North Carolina.

Resolution Consenting to Charter Communications Restructuring

The County Manager stated that Charter Communications is in reorganization after bankruptcy. He said his understanding is there would be no interruption in the services by Charter Communications. The County Attorney stated if the county doesn't agree to this the County is still bound by it. There is nothing Avery County can do.

Martha Hicks stated that she had been asked by several people that they would like to get Charter services. She said that she would like for Charter to expand in the county.

Chairman Poteat said that somewhere in the past there was an agreement with Charter and Avery County. The County Manager stated that Charter is not obligated unless there are a certain amount of subscribers in a certain district. Chairman Poteat asked the County Manager to request a representative from Charter to attend one of the meetings to address these issues.

Scott Heath stated that trying to deal with Charter has been the worst thing and there is no wonder they are going through bankruptcy. He said that he wanted them to be a good provider for the customers in Avery County.

Motion by Martha Hicks and second by Glenn Johnson to approve the Resolution for Charter Communications restructuring. Motion unanimously approved.

Application of Brine on County Roads

Glenn Johnson explained that a letter was given to him regarding application of "brine" on the county roads. Chairman Poteat said that apparently Mr. Potter is asking that we look into some other way than the application of brine on the county roads. Mr. Johnson stated that there needed to be more research regarding this issue. Scott Heath explained that the brine is traditionally known as sodium chloride and a lot of time it is put on as a preapplication. He said Mr. Potter does have some merit with the Calcium Chloride and there is a lot of information regarding this and that this needed to be looked into. Martha Hicks stated that if we go back to chains and sand there may be more school days missed and that the Board needs to watch what we are stating to the Department of Transportation. Chairman Poteat instructed the County Manager to have someone from DOT to be at the next meeting.

Scott Heath left at 5:49 p.m.

Finance Officer Report – Tim Greene

There are three capital project ordinances that need to be approved. The estimates on all the project ordinances should be high and these can be amended at any time. Chairman Poteat asked to add the word approximate to each one of the documents.

Motion by Martha Hicks and second by Phyllis Forbes to approve the Avery County Landfill Capital Project Ordinance in the approximate amount of \$1,450,000 with the appropriate signatures attached. Motion unanimously approved with those in attendance (4-0).

Motion by Phyllis Forbes and second by Glenn Johnson to approve the Avery County Banner Elk School Capital Project Ordinance in the approximate amount of \$10,033,000 with the appropriate signatures attached. Motion unanimously approved with those in attendance (4-0).

Motion by Martha Hicks and second by Phyllis Forbes to approve the Avery County Jail Addition and Renovation Capital Project Ordinance in the approximate amount of \$9,180,000 with the appropriate signatures attached. Motion unanimously approved with those in attendance (4-0).

Motion by Glenn Johnson and second by Phyllis Forbes to approve the Resolution to Fund the Capital Reserve Fund of Avery County with all Undesignated Funds in excess of 20% of General Fund Expenditures and Transfers each Year. Motion unanimously approved with those in attendance (4-0).

Budget Amendment - #

The Finance Officer stated that the 2008/2009 Budget Ordinance included a \$1,000,000 transfer to the Banner Elk School Fund from the Capital Reserve Fund. The Capital Reserve Fund did not include the recognition of the transfer to the Banner Elk School Fund.

Motion by Phyllis Forbes and second by Martha Hicks to approve a budget amendment with a debit amount of \$1,000,000 (466600.8541) to transfer to Banner Elk School Fund with an occupying credit of \$1,000,000 (463990.0000) to Fund Balance –Appropriated. Motion unanimously approved by those in attendance (4-0).

Budget Amendment #

Avery County will collect fire taxes in excess of budgeted figures. A budget amendment is required in order to pass through the additional tax collections.

Motion by Martha Hicks and second by Glenn Johnson to approve the budget amendment concerning a \$10,000 debit (206600.4012) to the Fire Commission and a \$10,000 credit (203100.0000) to Tax Collections – Fire. Motion unanimously approved by those in attendance (4-0).

Budget Amendment #

The Courthouse Project Fund can be closed with the remaining monies transferred to the Jail Project Fund.

Motion by Glenn Johnson and second by Phyllis Forbes to approve a debit and equal credit of \$6,588,458.47 to transfer to Jail Project Fund and Fund Balance Appropriated and an equal debit and credit of \$6,588,458.47 to Fund Balance Appropriated and Transfer from other funds. Motion unanimously approved by those in attendance (4-0).

County Attorney Report – Michaelle Poore

Michaelle Poore, County Attorney, stated that she did not have anything that requires any action by the Board. There is one issue that will have to be addressed fairly soon and that is title to the new Banner Elk School Site. It is coming to a point where the Board will need to look at leasing a portion of the property that is going to be used for the school site back to the school board during the construction phase. The County Attorney advised that she would contact the school board's attorney.

Adjourn

Motion by Phyllis Forbes and second by Martha Hicks to adjourn this meeting at 6:01 p.m. Motion unanimously approved by those in attendance (4-0).

**Kenny Poteat, Chairman
Avery County Board of Commissioners**

ATTEST: _____
Cindy Turbyfill, Clerk